

EXHIBIT 1

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION**

In the Matter of

Union Oil Company of California,
a corporation

Docket No. 9305

STATEMENT REQUIRED BY SECTION 3.22(f)
OF THE COMMISSION'S RULES OF PRACTICE

Counsel for Respondent Union Oil Company of California ("Unocal") have conferred with Complaint Counsel in a good faith attempt to resolve the issues raised by the attached motion, as evidenced by the following:

1. On May 21, 2003, counsel for Unocal sent a six-page letter to Complaint Counsel requesting that Complaint Counsel's responses to Unocal's interrogatories nos. 1-3 be amended in light of the deposition testimony of Peter D. Venturini, in his role as the person designated by the California Air Resources Board ("CARB") to testify on its behalf regarding the alternative regulatory actions that CARB would have taken absent Unocal's alleged fraud. (*See* Attachment A). The letter explained the specific contradictions between Complaint Counsel's responses and Mr. Venturini's testimony, and requested that amended responses be supplied as promptly as possible.
2. On May 29, 2003, having received no response from Complaint Counsel in response to the letter of May 21, 2003, counsel for Unocal sent a second letter reminding Complaint Counsel of the obligations imposed by the Commission's Rules of Practice and requesting a prompt response. (*See* Attachment B).

3. On May 29, 2003, Complaint Counsel sent a letter to Unocal indicating that the content of Mr. Venturini's deposition would be reviewed "after we receive the final signed and corrected version" and that amended interrogatory responses would be provided "if appropriate." (*See* Attachment C). Complaint Counsel's letter denied that the original interrogatory responses were in any way materially incomplete or inaccurate.
4. Following receipt of Complaint Counsel's letter, counsel for Unocal sent another letter on May 29, 2003, (*see* Attachment D), indicating that Complaint Counsel's intent to wait until a final signed version of Mr. Venturini's transcript was available prior to reviewing the testimony was unacceptable and that Unocal was prepared to move to compel a timely amended response.
5. Complaint Counsel responded to Unocal's letter on May 29, 2003, proposing a telephone conference to meet and confer on the interrogatory responses. (*See* Attachment E).
6. On June 2, 2003, Complaint Counsel J. Robert Robertson and John Roberti met and conferred by telephone with Unocal's counsel Joseph Kattan and Chris Wood. Mr. Robertson indicated that he needed additional time to review the transcript of Mr. Venturini's deposition before determining whether Complaint Counsel would agree to provide amended interrogatory responses. Mr. Robertson agreed to call Unocal's counsel by June 6, 2003, to communicate his decision on amending the interrogatory responses. Also on June 2, 2003, Unocal's counsel sent a letter to Complaint Counsel memorializing the timing agreed upon during the conference call. (*See* Attachment F).
7. On June 6, 2003, Complaint Counsel did not call Unocal's counsel but instead provided a one-paragraph "supplemental response" to their previous interrogatory answers. (*See* Attachment G). This "supplemental response" did not amend or withdraw any of the

materially inaccurate statements included in the prior interrogatory responses, but merely stated that the deposition testimony of Mr. Venturini was “incorporat[ed] by reference” into the prior responses. Throughout the exchanges noted above, Complaint Counsel have never disclosed their substantive reasons, if any, for their continued refusal to amend their interrogatory responses as required by the Commission’s Rules of Practice.

Respectfully submitted,

Martin R. Lueck /SD

Martin R. Lueck
David W. Beehler
Sara A. Poulos
Diane L. Simerson
Steven E. Uhr
Bethany D. Krueger
David E. Oslund
ROBINS, KAPLAN, MILLER & CIRESI L.L.P.
2800 LaSalle Plaza
800 LaSalle Avenue
Minneapolis, MN 55402-2015
Phone: (612) 349-8500
Fax: (612) 339-4181

and,

Joseph Kattan, P.C.
Chris Wood
GIBSON, DUNN & CRUTCHER LLP
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5306
Phone: (202) 955-8500
Fax: (202) 467-0539

A

GIBSON, DUNN & CRUTCHER LLP

LAWYERS

A REGISTERED LIMITED LIABILITY PARTNERSHIP
INCLUDING PROFESSIONAL CORPORATION

1050 Connecticut Avenue, N.W. Washington, D.C. 20036-5306

(202) 955-8500

www.gibsondunn.com

jkatani@gibsondunn.com

May 21, 2003

Direct Dial
(202) 955-8239
Fax No.
(202) 530-9558

Client No.
T 93014-00388

VIA OVERNIGHT DELIVERY

J. Robert Robertson, Esq.
Senior Litigation Counsel
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Drop 374
Washington, DC 20580

Richard B. Dagen, Assistant Director
Chong S. Park, Esq.
Bureau of Competition
Federal Trade Commission
601 New Jersey Avenue
Washington, D.C. 20580

Re: *In the Matter of Union Oil Company of California*
Docket No. 9305

Gentlemen:

The purpose of this letter is to request, pursuant to Commission Rule 3.31(e), that Complaint Counsel amend their response to Unocal's interrogatories no. 1, 2, and 3. The deposition testimony of Peter D. Venturini, in his role as the person designated by the California Air Resources Board ("CARB") to testify on its behalf regarding the alternative regulatory actions that CARB would have taken absent Unocal's alleged fraud, vitiates the alternative regulatory scenarios set forth in Complaint Counsel's interrogatory responses. These responses state that CARB would have taken certain actions that Mr. Venturini, who for these purposes testified as the sole and official voice of CARB, has unequivocally ruled out as possibilities.

As you know, Rule 3.31(e)(2) requires a party that has responded to a request for discovery to supplement or correct its response "if the party learns that the response is in some material respect incomplete or incorrect." In his testimony on behalf of CARB, Mr. Venturini, who was assisted in his preparation for this testimony by three separate meetings with Complaint Counsel, has rendered Complaint Counsel's responses to interrogatories 1, 2, and 3 materially incorrect.

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LONDON PARIS MUNICH ORANGE COUNTY CENTURY CITY DALLAS DENVER

J. Robert Robertson
Richard B. Dagen
May 21, 2003
Page 2

CARB's Testimony

On May 14, 2003, Peter D. Venturini testified on behalf of CARB as the person designated by that agency to testify in response to a notice of deposition pursuant to Rule 3.33(c) of the Commission's rules. The topics with respect to which Mr. Venturini testified on behalf of CARB were:

"1. All facts and documents which evidence or reflect that Unocal committed fraud upon the California Air Resources Board and/or the California Air Resources Board's staff before, during or after the adoption of CARB's Phase 2 rulemaking on reformulated gasoline in 1991....

"3. For each fraudulent act identified by you in response to the request in paragraph (1) above, the action which CARB staff and/or CARB would or would not have taken in 1991, 1992, 1993, [or] 1994 if the act identified by you had not occurred.

-- "4. The reasons and basis for CARB staff's proposals and CARB's adoption of Phase 2 Regulations for reformulated gasoline, any amendments thereto including the 1994 predictive Model and the Phase 3 Regulations for reformulated gasoline, including without limitation the reasons and basis for the T50 specification contained therein."

Tr. of Venturini Deposition at 8 & Ex. 1 at 1-2. When asked whether his testimony on behalf of CARB was to be limited to particular portions of these three topics or encompassed the entirety of these topics, Mr. Venturini answered without any qualification that he was "prepared to discuss these three topics, yes." *Id.* at 8.

Interrogatories No. 1 and 3

Unocal's interrogatory no. 1 requested Complaint Counsel to identify with specificity the alternative regulations that CARB would have enacted but for Unocal's alleged fraud.

REDACTED

REDACTED

Unocal's Interrogatory no. 3 asked Complaint Counsel to "identify with specificity the terms of the regulations that CARB would have adopted had Unocal disclosed its pending patent rights prior to the promulgation of Phase 2 regulations" and to "describe specifically what prevented CARB from subsequently adopting" such regulations. In response, Complaint Counsel stated:

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REDACTED

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At his deposition, Mr. Venturini was asked specifically what CARB would have done had Unocal informed CARB staff of its pending patent application but had not provided information regarding the contents of that application. He answered: "If Unocal had told us there was a pending patent application, I think the outcome would have been no regulation." Venturini Tr., Day 2, at 216. Mr. Venturini reiterated in response to follow up questioning that "we would not have taken that regulation to the Board" (*id.* at 218), and that "I'm quite certain

we would not have taken a regulation to the Board” (*id.*). Mr. Venturini testified that CARB also would not have enacted Phase 2 regulations in other circumstances involving disclosure by Unocal of its patent application. Thus, he testified that “[w]e would still not have adopted a regulation” had Unocal disclosed its patent application to CARB but asked that it be held in confidence (*id.* at 223), and that “there would not have been a regulation” in the event that Unocal had disclosed the patent application and allowed CARB to disclose the application to other refiners (*id.* at 232).

Indeed, Mr. Venturini insisted, in his role as CARB’s designated witness, that CARB would not have enacted an alternative regulation under any circumstance in which it would have been aware of Unocal’s patent application:

[T]he thing that is certain is if Unocal had informed us in 1991, before we adopted we adopted this regulation, that there was a patent pending, there wouldn’t have been a regulation.

Id. at 230. Mr. Venturini specifically confirmed that his testimony that CARB would not have enacted any regulation was given on behalf of CARB. *Id.* at 222.

Given the foregoing testimony by Complaint Counsel’s witness, Complaint Counsel’s responses to interrogatories 1 and 3 are materially incorrect. Complaint Counsel’s responses assert that CARB could or would have enacted any of a number of alternative regulations had it been aware of Unocal’s patent application. CARB’s Rule 3.33(c) witness on the subject, however, testified categorically that “there wouldn’t have been any regulation.” It bears emphasis that this testimony came after three separate deposition preparation sessions in which Complaint Counsel participated in the preparation of Mr. Venturini for his deposition. Venturini Tr., Day 1, at 10-11.

Interrogatory No. 2

Interrogatory No. 2 asked Complaint Counsel to identify with specificity actions that CARB would have taken had Unocal not committed the alleged fraud to cause the terms on which Unocal was able to enforce its patent rights to have differed from the actual terms on which Unocal enforced its rights, as alleged in the Complaint.

REDACTED

Mr. Venturini's testimony on behalf of CARB under Rule 3.33(c) makes it clear that alternatives recited by Complaint Counsel are materially incorrect and that the response therefore must be amended pursuant to Rule 3.31(e)(2). In response to the question whether, in response to a disclosure by Unocal that it had a pending patent application, CARB would "have asked Unocal to give up its patent or limit its royalties in some fashion," Mr. Venturini responded: "That is pure speculation." Venturini Tr., Day 2, at 223. Mr. Venturini testified subsequently that the only nonspeculative statement that he could make regarding CARB's response to a disclosure of Unocal's patent application is that CARB would not have enacted any regulations. *Id.* at 227, 230, 233. Indeed, directly contradicting Complaint Counsel's statements that CARB likely would have sponsored some kind of patent accord had it been aware of the Unocal patent application, Mr. Venturini testified that CARB would not have enacted its regulation regardless of the terms under which Unocal would have made its patents available for license:

Q: Let me ask you this: If Unocal had disclosed the application to CARB and allowed CARB to disclose the application to others and was willing to discuss potential licenses, what would have happened?

A: I think I answered that already, that if the patent had been disclosed to us there would not have been a regulation.

Q: Regardless of what Unocal would have licensed it for?

A: Correct.

Id. at 232.

The testimony of Complaint Counsel's witness, Mr. Venturini, on behalf of CARB cannot be reconciled with Complaint Counsel's response to interrogatory 2. Given Complaint Counsel's knowledge of the materially incorrect nature of its response, Complaint Counsel are obligated under rule 3.31(e)(2) to correct this response.

* * * * *

It is critical that Complaint Counsel correct the responses promptly to facilitate the narrowing of issues. The alternatives proffered by Complaint Counsel that have been contradicted by Mr. Venturini's testimony involve a wide range of regulatory scenarios, each of which must be investigated in terms of its feasibility, impact on emissions, and cost impact, among other things. Particularly given the short time available from the issuance of the Complaint to trial, it would be burdensome to force Unocal to devote its resources to defending itself against scenarios that Complaint Counsel have an obligation to withdraw. The burden is particularly great because

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GIBSON, DUNN & CRUTCHER LLP

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Page 6

continuing adherence by Complaint Counsel to the materially incorrect interrogatory responses would impose a substantial unjustified burden on Unocal. Such continuing adherence would also be contrary to the express obligations that Rule 3.31(e)(2) imposes on Complaint Counsel. We look forward to the prompt service of an amended response to interrogatories 1, 2, and 3.

Sincerely,



Joseph Kattan, P.C.

JK/bab

cc: David W. Beehler

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GIBSON, DUNN & CRUTCHER LLP

LAWYERS

A REGISTERED LIMITED LIABILITY PARTNERSHIP
INCLUDING PROFESSIONAL CORPORATIONS

1050 Connecticut Avenue, N.W. Washington, D.C. 20036-5306

(202) 955-8500

www.gibsondunn.com

jkattan@gibsondunn.com

May 29, 2003

Direct Dial

(202) 955-8239

Fax No.

(202) 530-9558

Client No.

T 93014-00388

VIA FAX AND OVERNIGHT DELIVERY

J. Robert Robertson, Esq.
Senior Litigation Counsel
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Drop 374
Washington, DC 20580

Richard B. Dagen, Assistant Director
Chong S. Park, Esq.
Bureau of Competition
Federal Trade Commission
601 New Jersey Avenue
Washington, D.C. 20580

Re: *In the Matter of Union Oil Company of California*
Docket No. 9305

Gentlemen:

On May 21, 2003, I wrote you regarding the need for Complaint Counsel to amend their responses to Unocal's interrogatories 1, 2, and 3. I have yet to receive even an acknowledgment of my letter. Unocal is prepared to move promptly to compel. Please advise me immediately whether Complaint Counsel intend to meet their obligations under the Commission's rules of practice.

Sincerely



Joseph Kattan, P.C.

JK/bab

cc: David W. Beehler

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GIBSON, DUNN & CRUTCHER LLP

A Registered Limited Liability Partnership
Including Professional Corporations
1050 Connecticut Avenue N.W.
Washington, District of Columbia 20036

TELEPHONE: (202) 955-8500
FACSIMILE: (202) 467-0539

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Name:	J. Robert Robertson	Company:	Federal Trade Commission
Facsimile No.	(202) 326-2884	City:	Washington
Main No.	(202) 326-3498	State:	DC
Name:	Richard B. Dagen	Company:	Federal Trade Commission
Facsimile No.	(202) 326-3496	City:	Washington
Main No.	(202) 326-2628	State:	D.C.
Name:	Chong S. Park	Company:	Federal Trade Commission
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A Registered Limited Liability Partnership
Including Professional Corporations
1050 Connecticut Avenue N.W.
Washington, District of Columbia 20036

TELEPHONE: (202) 955-8500
FACSIMILE: (202) 467-0539

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City, State: Minneapolis, MN
Facsimile No.: (612) 339-4181
Main Telephone: (612) 349-0802

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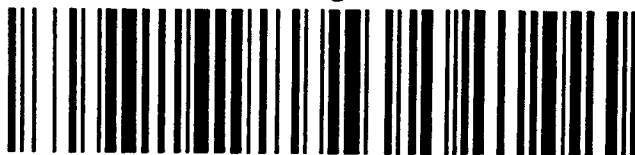
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Bureau of Competition
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Kattan, Joseph
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jkattan@gibsondunn.com
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Federal Trade Commission

J. Robert Robertson

600 Pennsylvania Avenue, N.W.

Bureau of Competition

Washington, DC 20580

202-326-3498

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Kattan, Joseph

93014-00388

jkattan@gibsondunn.com

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UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

J. Robert Robertson
Senior Litigation Counsel

Direct Dial
(202) 326-3496

May 29, 2003

BY FACSIMILE

Joseph Kattan, Esq.
Gibson, Dunn & Crutcher LLP
1050 Connecticut Avenue, N.W.
Washington, DC 20036-5306

Re: Union Oil Company of California, a corporation
Docket No. 9305

Dear Joe:

This will respond to your letter of May 21, 2003. We will review Mr. Venturini's transcript after we receive the final signed and corrected version and, if appropriate, we will amend our answers. Contrary to the position you take in your letter, wherein you demand an immediate modification, the rules at most requires us "seasonably to amend" our answers, and only if the answers are in some way materially incomplete or incorrect (which they are not). If it is appropriate to amend our responses, we will do so seasonably in accordance with the rules.

Very truly yours,

J. R. Robertson 1/03

J. Robert Robertson

D

GIBSON, DUNN & CRUTCHER LLP

LAWYERS

A REGISTERED LIMITED LIABILITY PARTNERSHIP
INCLUDING PROFESSIONAL CORPORATIONS

1050 Connecticut Avenue, N.W. Washington, D.C. 20036-5506
(202) 955-8500

www.gibsondunn.com

jkattan@gibsondunn.com

May 29, 2003

Direct Dial
(202) 955-8239
Fax No.
(202) 530-9558

Client No.
T 93014-00388

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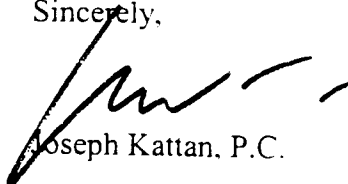
J. Robert Robertson, Esq.
Senior Litigation Counsel
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Drop 374
Washington, DC 20580

Re: *In the Matter of Union Oil Company of California*
Docket No. 9305

Dear Mr. Robertson:

This is in response to your letter of May 29, 2003. I understand you to be saying that Complaint Counsel refuse even to consider amending the response to Unocal's interrogatories for another 30 days, notwithstanding the fact that the transcript of the deposition has been available to Complaint Counsel for more than a week and that you sat next to Mr. Venturini during his entire deposition. In light of this refusal and Complaint Counsel's failure to meet and confer, Unocal will move promptly to compel an amended response.

Sincerely,



Joseph Kattan, P.C.

JK/bab

cc: Chong S. Park, Esq.
David W. Beehler

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A Registered Limited Liability Partnership
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1050 Connecticut Avenue N.W.
Washington, District of Columbia 20036

TELEPHONE: (202) 955-8500
FACSIMILE: (202) 467-0539

FACSIMILE TRANSMISSION INFORMATION

May 29, 2003

TO:

Name:	J. Robert Robertson	Company:	Federal Trade Commission
Facsimile No.	(202) 326-2884	City:	Washington
Main No.	(202) 326-3498	State:	DC
Name:	Chong S. Park	Company:	Federal Trade Commission
Facsimile No.	(202) 326-3496	City:	Washington
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A Registered Limited Liability Partnership
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1050 Connecticut Avenue N.W.
Washington, District of Columbia 20036

TELEPHONE: (202) 955-8500
FACSIMILE: (202) 467-0539

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May 29, 2003

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GIBSON, DUNN & CRUTCHER LLP

A Registered Limited Liability Partnership
Including Professional Corporations
1050 Connecticut Avenue N.W.
Washington, District of Columbia 20036

TELEPHONE: (202) 955-8500
FACSIMILE: (202) 467-0539

FACSIMILE TRANSMISSION INFORMATION

May 29, 2003

TO:

Name:	J. Robert Robertson	Company:	Federal Trade Commission
Facsimile No.	(202) 326-2884	City:	Washington
Main No.	(202) 326-3498	State:	DC
Name:	Chong S. Park	Company:	Federal Trade Commission
Facsimile No.	(202) 326-3496	City:	Washington
Main No.	(202) 326-2372	State:	DC
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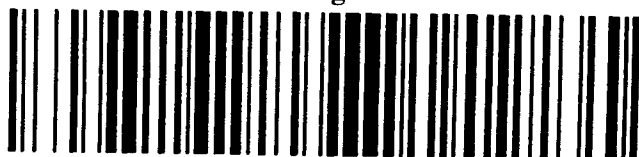
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J. Robert Robertson

600 Pennsylvania Avenue, N.W.

Bureau of Competition

Washington, DC 20580

202-326-3498

Ship From:

Kattan, Joseph

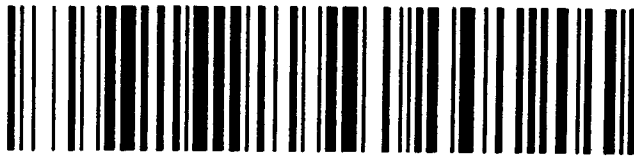
93014-00388

jkattan@gibsondunn.com

202-955-8239

DC-3063B

Ship Another PackageRepeat Shipment

Package ID

E028E74428332

Please attach this to your package

Package Detail:

General Description of Goods:**Is Document Only?:****Residential:****UPS Services:** Next Day Air**Letter:** Y**COD Amount:** COD Payment Method:**Declared Value:****Ship Notification:** Delivery Confirmation:**Saturday Delivery:** Saturday Pickup:**Additional Handling:** Hazardous Material:**Verbal Confirmation of Delivery (Early AM only):****Call Tag:****Billing Option:** Prepaid**Package Weight:** Width: Length: Height:**Merchandise Description:****Special Instructions:****Ref #1 Ref #2** Joseph Kattan **Ref #4 Ref #5****Qualifier #1 Qualifier #2****Ship To:**

Federal Trade Commission

Chong S. Park

601 New Jersey Avenue, N.W.

Bureau of Competition

Washington, DC 20580

202-326-2372

Ship From:

Kattan, Joseph

93014-00388

jkattan@gibsondunn.com

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UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

J. Robert Robertson
Senior Litigation Counsel

Direct Dial
(202) 326-3496

May 29, 2003

BY FACSIMILE

Joseph Kattan, Esq.
Gibson, Dunn & Crutcher LLP
1050 Connecticut Avenue, N.W.
Washington, DC 20036-5306

Re: Union Oil Company of California, a corporation
Docket No. 9305

Dear Joe:

Your letter is irrational and untrue. You have not bothered to talk with me at all about this issue. I would be glad to discuss this issue with you at any time.

Complaint Counsel has not refused to do anything. We have not said that it will take 30 days to amend our interrogatory answers. Indeed, we are in the process of finding out when we can get a complete and final transcript of Mr. Venturini's deposition. Please call me if you wish to discuss this issue.

Very truly yours,

J.R. Robertson JRB

J. Robert Robertson

F

GIBSON, DUNN & CRUTCHER LLP

LAWYERS

A REGISTERED LIMITED LIABILITY PARTNERSHIP
INCLUDING PROFESSIONAL CORPORATIONS

1050 Connecticut Avenue, N.W. Washington, D.C. 20036-5306

(202) 955-8500

www.gibsondunn.com

jkattan@gibsondunn.com

June 2, 2003

Direct Dial

(202) 955-8239

Fax No.

(202) 530-9558

Client No.

T 93014-00388

VIA FAX AND OVERNIGHT MAIL

J. Robert Robertson, Esq.
Senior Litigation Counsel
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Drop 374
Washington, DC 20580

Re: *In the Matter of Union Oil Company of California*
Docket No. 9305

Dear Mr. Robertson:

This will confirm that at today's meet and confer discussion concerning Unocal's request for Complaint Counsel to amend their interrogatory responses, you committed to read the transcripts of Mr. Venturini's deposition and to inform Unocal no later than Thursday or Friday of this week, as you put it, "what I'm going to do" in response to Unocal's request. I remind you that Unocal first made its request to Complaint Counsel on May 21 and that it was only after I sent you a second letter, on May 29, that Complaint Counsel even acknowledged Unocal's request. Accordingly, to avoid motion practice, we expect a clear and unequivocal commitment from Complaint Counsel to amend the interrogatory responses as soon as possible.

Sincerely,

Joseph Kattan, P.C.

JK/bab

cc: John Roberti
David W. Beehler

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*** TX REPORT ***

TRANSMISSION OK

TX/RX NO 2879
CONNECTION TEL 93262884
CONNECTION ID OFFICE OF THE DI
ST. TIME 06/02 12:42
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RESULT OK

GIBSON, DUNN & CRUTCHER LLP

A Registered Limited Liability Partnership
Including Professional Corporations
1050 Connecticut Avenue N.W.
Washington, District of Columbia 20036

TELEPHONE: (202) 955-8500
FACSIMILE: (202) 467-0539

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June 2, 2003

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Name:	John Roberti	Company:	Federal Trade Commission
Facsimile No.	(202) 326-3498	City:	Washington
Main No.	(202) 326-3775	State:	DC
Name:		Company:	
Facsimile No.		City:	
Main No.		State:	
Name:		Company:	
Facsimile No.		City:	
Main No.		State:	

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Facsimile No.	(202) 326-2884	City:	Washington
Main No.	(202) 326-3498	State:	DC
Name:	John Roberti	Company:	Federal Trade Commission
Facsimile No.	(202) 326-3496	City:	Washington
Main No.	(202) 326-3775	State:	DC
Name:		Company:	
Facsimile No.		City:	
Main No.		State:	
Name:		Company:	
Facsimile No.		City:	
Main No.		State:	

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CONNECTION TEL 159301400388916123394181
CONNECTION ID
ST. TIME 06/02 12:46
USAGE T 00'47
PGS. SENT 2
RESULT OK

GIBSON, DUNN & CRUTCHER LLP

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1050 Connecticut Avenue N.W.
Washington, District of Columbia 20036

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FACSIMILE: (202) 467-0539

FACSIMILE TRANSMISSION INFORMATION

June 2, 2003

TO: Mr./Ms.: David W. Beehler
Company: Robins, Kaplan, Miller & Ciresi
City, State: Minneapolis, MN
Facsimile No.: (612) 339-4181
Main Telephone: (612) 349-0802

FROM: Joseph Kattan Room: DC-2022 Direct Dial: (202) 955-8239
Our File Number: T 93014-00388 Fax: (202) 530-9558 Email: jkattan@gibsondunn.com

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SPECIAL INSTRUCTIONS/MESSAGE: _____

Package ID

E028E71064313

Please attach this to your package

Package Detail:

General Description of Goods:**Is Document Only?:****Residential:****UPS Services:** Next Day Air**Letter:** Y**COD Amount:** **COD Payment Method:****Declared Value:****Ship Notification:** **Delivery Confirmation:****Saturday Delivery:** **Saturday Pickup:****Additional Handling:** **Hazardous Material:****Verbal Confirmation of Delivery (Early AM only):****Call Tag:****Billing Option:** Prepaid**Package Weight:** **Width:** **Length:** **Height:****Merchandise Description:****Special Instructions:****Ref #1** **Ref #2** Joseph Kattan **Ref #4** **Ref #5****Qualifier #1** **Qualifier #2****Ship To:**

Federal Trade Commission

J. Robert Robertson

600 Pennsylvania Avenue, N.W.

Bureau of Competition

Washington, DC 20580

202-326-3498

Ship From:

Kattan, Joseph

93014-00388

jkattan@gibsondunn.com

202-955-8239

DC-3063B

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UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

John Roberti
Attorney, Bureau of Competition
Direct Dial: (202) 326-3775
Direct Fax: (202) 326-3498

June 6, 2003

BY FACSIMILE AND OVERNIGHT DELIVERY

Joseph Kattan, Esq.
Gibson, Dunn & Crutcher LLP
1050 Connecticut Avenue, N.W.
Washington, DC 20036-5306

Re: In Re Union Oil Company of California
Docket No. 9305

Dear Mr. Kattan:

Enclosed please find Complaint Counsel's Supplemental Response to Respondent's Interrogatories Nos. 1-3.

Very truly yours,

A handwritten signature in cursive script that reads "John Roberti".
John Roberti

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

In the Matter of

UNION OIL COMPANY OF CALIFORNIA,

a corporation

DOCKET NO. 9305

**COMPLAINT COUNSEL'S SUPPLEMENTAL RESPONSE
TO RESPONDENT'S INTERROGATORIES NOS. 1-3**

Pursuant to Section 3.35(b) of the Federal Trade Commission's Rules of Practice, Complaint Counsel hereby Supplements its responses to Respondent Union Oil Company of California's Interrogatories Nos. 1-3.

Supplemental Response to Interrogatories Nos. 1-3:

In addition to the answers set forth in responses dated April 14, 2003 and May 7, 2003, Complaint Counsel hereby supplements its responses by incorporating by reference the deposition testimony of the California Air Resources Board pursuant to Rule 3.33(c), and the testimony of Peter D. Venturini, Chief of the Stationery Source Division of the California Air Resources Board. This testimony may be found in transcripts of the deposition of Peter D. Venturini (Vols. 1-3) dated May 13, 2003, May 14, 2003, and May 15, 2003. In addition, Complaint Counsel supplements its responses to Interrogatories Nos. 1 and 2 by identifying the transcript of the deposition of Peter D. Venturini, Vols. 1-3, dated May 13, 2003, May 14, 2003 and May 15, 2003, as a document that relates to the "matters" that are the subject of Interrogatories Nos. 1 and 2.

Respectfully submitted,

A handwritten signature in cursive script, reading "John Robert Robertson", written in dark ink. The signature is fluid and stylized, with a horizontal line drawn underneath it.

J. Robert Robertson

Chong S. Park

John Roberti

David F. Conn

Chul Pak

Lisa D. Fialco

Peggy D. Bayer

Harry Schwirck

Counsel Supporting the Complaint

Bureau of Competition

Federal Trade Commission

Washington, DC 20580

(202) 326-2372

Facsimile (202) 326-3496

Dated: June 6, 2003

VERIFICATION

This *Complaint Counsel's Supplemental Response to Respondent's Interrogatories Nos. 1-3* was prepared and assembled under my supervision. The information is, to the best of my knowledge, true, correct, and complete.


John Roberti



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

John Roberti
Attorney
Direct line: (202) 326-3775
Fax: (202) 326-3496

Facsimile Transmission

Date: June 6, 2003

To: Joseph Kattan, Esq. (202) 530 9558 (fax) (202) 955-8239 (voice)
Christopher Wood, Esq. (202) 467-0539 (fax) (202) 955-8595 (voice)

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